

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
MAIROBY HERNANDEZ, *on behalf of himself and all* :
others similarly situated, :

Plaintiff, :

23 Civ. 6796 (JPC)

-v- :

ORDER

RAREESSENCE, LLC, :

Defendant. :

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JOHN P. CRONAN, United States District Judge:

On August 15, 2023, Plaintiff served Defendant with copies of the Summons and Complaint. Dkt. 5. Defendant's deadline to respond to the Complaint was therefore September 5, 2023. *See* Fed. R. Civ. P. 12(a)(1)(A)(i). When Defendant failed to answer, the Court extended *sua sponte* Defendant's deadline to respond to the Complaint to October 24, 2023. Dkt. 6. The Court also ordered Plaintiff to move for default judgment by October 31, 2023, in the event Defendant failed to respond once again. *Id.* Pursuant to Plaintiff's request, the Court later adjourned Defendant's deadline to answer to November 23, 2023, and once more instructed Plaintiff to seek a certificate of default by November 30, 2023, if Defendant failed to answer. Dkts. 7, 8. Those deadlines have passed, and the docket does not reflect either a response to the Complaint from Defendant or a request for entry of default against Defendant from Plaintiff.

Accordingly, the Court extends *sua sponte* Defendant's deadline to respond to the Complaint to February 2, 2024. If Defendant once again fails to respond to the Complaint by its deadline to do so, Plaintiff should seek a Certificate of Default by February 9, 2024. No further extensions on these deadlines will be granted. Plaintiff is cautioned that any failure to comply with this Order shall result in immediate dismissal of the matter for failure to prosecute. *See LeSane v.*

Hall's Sec. Analyst, Inc., 239 F.3d 206, 209 (2d Cir. 2001) (“[I]t is unquestioned that Rule 41(b) . . . gives the district court authority to dismiss a plaintiff’s case *sua sponte* for failure to prosecute”); *Lucas v. Miles*, 84 F.3d 532, 534-35 (2d Cir. 1996) (“Rule 41(b) of the Federal Rules of Civil Procedure authorizes the district court to dismiss an action when a plaintiff fails to comply with any order of the court.”).

SO ORDERED.

Dated: January 26, 2024
New York, New York

A handwritten signature in black ink, appearing to read "John P. Cronan", written over a horizontal line.

JOHN P. CRONAN
United States District Judge